



[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Amendments: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusion amendments.

SUMMARY: In September 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately \$200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated a product exclusion process in June 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to make technical amendments to previously announced exclusions.

DATES: The amendments announced in this notice are retroactive to the date of publication of the original exclusions.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler, Assistant General Counsel Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact traderemedymail@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), 84 FR 61674 (November 13, 2019), 84 FR 65882 (November 29, 2019), 84 FR 69012 (December 17, 2019), 85 FR 549 (January 6, 2020), 85 FR 6674 (February 5, 2020), 85 FR 9921 (February 20, 2020), 85 FR 15015 (March 16, 2020), 85 FR 17158 (March 26, 2020), 85 FR 23122 (April 24, 2020), 85 FR 27489 (May 8, 2020), 85 FR 32094 (May 28, 2020), and 85 FR 38000 (June 24, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent *ad valorem* duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$200 billion. *See* 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. *See* 84 FR 20459. On June 24, 2019, the U.S. Trade Representative established a process by which stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the \$200 billion action from the additional duties. *See* 84 FR 29576 (June 24 notice).

Under the June 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product

from other products within the relevant eight-digit HTSUS subheading covered by the \$200 billion action. Requestors also had to provide the ten-digit HTSUS subheading most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.

The June 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The June 24 notice required submission of requests for exclusion from the \$200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative periodically would announce decisions. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September, October, November and December 2019, and in January, February, March, April, May and June 2020. *See* 84 FR 49591; 84 FR 57803; 84 FR 61674; 84 FR 65882; 84 FR 69012; 85 FR 549; 85 FR

6674; 85 FR 9921; 85 FR 15015; 85 FR 17158; 85 FR 23122; 85 FR 27489; 85 FR 32094; and 85 FR 38000. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0005>.

B. Technical Amendments to Exclusions

The Annex contains 14 technical amendments to U.S. notes 20(ll)(24) and (25); U.S. notes 20(vv)(71) and (116); U.S. notes 20(xx)(20), (43), and (44); U.S. notes 20(yy)(75), (113), (116), (117), (118), and (138); and U.S. note 20(aaa)(47) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 57803 (October 28, 2019), 85 FR 17158 (March 26, 2020), 85 FR 23122 (April 24, 2020), 85 FR 27489 (May 8, 2020), and 85 FR 32094 (May 28, 2020). The Annex also makes three additional amendments to accommodate conforming changes to the HTSUS: U.S. note 20(qq)(35), U.S. note 20(vv)(79), and U.S. note 20(aaa)(49) to subchapter III of chapter 99 of the HTSUS, published at 85 FR 6674 (February 5, 2020), 85 FR 17158 (March 26, 2020), and 85 FR 32094 (May 28, 2020).

As stated in the September 20, 2019 notice, the exclusions apply from September 24, 2018 to August 7, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative will continue to issue determinations on pending requests on a periodic basis.

ANNEX

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. U.S. note 20(II)(24) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “valued not over \$0.10 per kg” and inserting “valued not over \$0.05 per piece” in lieu thereof.
2. U.S. note 20(II)(25) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “valued not over \$0.10 per kg” and inserting “valued not over \$0.07 per piece” in lieu thereof.
3. U.S. note 20(vv)(71) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “with adhesive on one side, in rectangular sheets having rounded corners, each measuring 55 mm by 120 mm but no more than 212 mm by 278 mm and at least 0.51 mm but no more than 0.55 mm in thickness” and inserting “transparent, cut, and treated, with adhesive on one side, in rectangular sheets, each weighing at least 6 g but not more than 77 g, each measuring not less than 2.8 cm but not more than 28 cm in height, not less than 1.9 cm but not more than 21 cm in width, and not more than 0.1 cm in thickness” in lieu thereof.
4. U.S. note 20(vv)(116) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “incorporating permanent split capacitors,” and inserting “whether or not incorporating permanent split capacitors,” in lieu thereof.
5. U.S. note 20(xx)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “without hydration systems,”.
6. U.S. note 20(xx)(43) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “each measuring no less than 328 mm by 127 mm by 107 mm and no more than 352 mm by 209 mm by 162 mm” and inserting “each measuring no less than 323 mm by 122 mm by 102 mm and no more than 357 mm by 214 mm by 167 mm” in lieu thereof.
7. U.S. note 20(xx)(44) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “each measuring not less than 350 mm by 127 mm by 107 mm and not more than 350 mm by 168 mm by 140 mm, of an output of 115 W to 280 W, and weighing at least 1.85 kg and no more than 2.08 kg” and inserting “each measuring not less than 345 mm by 122 mm by 102 mm and not more than 355 mm by 173 mm by 145 mm, of an output of 100 W to 285 W, and weighing at least 1.80 kg but no more than 2.72 kg” in lieu thereof.
8. U.S. note 20(yy)(75) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “with 89 mm pump and 11 gauge steel forks” and inserting “with a pump measuring between 89 mm and 105 mm and steel forks with a Gauge Range between 9-12” in lieu thereof.

9. U.S. note 20(yy)(113) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “suitable for use in automatic transmission systems for passenger motor vehicles (described in statistical reporting number 8708.99.6890)” and inserting “(described in statistical reporting number 8708.40.7570)” in lieu thereof.
10. U.S. note 20(yy)(116) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “suitable for use in automatic transmission systems for passenger motor vehicles (described in statistical reporting number 8708.99.6890)” and inserting “(described in statistical reporting number 8708.40.7570)” in lieu thereof.
11. U.S. note 20(yy)(117) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “suitable for use in automatic transmission systems for passenger motor vehicles (described in statistical reporting number 8708.99.6890)” and inserting “(described in statistical reporting number 8708.40.7570)” in lieu thereof.
12. U.S. note 20(yy)(118) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “suitable for use in automatic transmission systems for passenger motor vehicles (described in statistical reporting number 8708.99.6890)” and inserting “(described in statistical reporting number 8708.40.7570)” in lieu thereof.
13. U.S. note 20(yy)(138) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “not more than 25.4 cm in height” and inserting “not more than 45 cm in height” in lieu thereof.
14. U.S. note 20(aaa)(47) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “for assembly in cuplock configurations” and inserting “for assembly in ringlock or cuplock configurations” in lieu thereof.
15. U.S. note 20(qq)(35) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “(described in statistical reporting number 4823.90.8600)” and inserting “(described in statistical reporting number 4823.90.8600 prior to July 1, 2020; described in statistical reporting number 4823.90.8680 effective July 1, 2020)” in lieu thereof.
16. U.S. note 20 (vv)(79) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “(described in statistical reporting number 7310.10.0010)” and inserting “(described in statistical reporting number 7310.10.0010) prior to July 1, 2020; described in statistical reporting number 7310.10.0015 effective July 1, 2020)” in lieu thereof.

17. U.S. note 20(aaa)(49) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “(described in statistical reporting number 7310.10.0010)” and inserting “(described in statistical reporting number 7310.10.0010 prior to July 1, 2020; described in statistical reporting number 7310.10.0015 effective July 1, 2020)” in lieu thereof.

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